

CCRB CASE CLOSING FORM

Investigator assigned: J. Gooding-Alexander		Team: 4	CCRB#: 9602676	FADO: F
Date of incident: 04/13/96	Time of incident: 11:39 a.m.	Location of incident: § 87(2)(b) Manhattan	Pct. of occurrence: 001	Date SOL expires: 10/13/97
Date reported: 06/13/96	Time reported: 1:46 p.m.	To whom/where/how reported: The complainant filed his complaint in person to the CCRB.		
Complainant: § 87(2)(b)	Home address: § 87(2)(b)			
Victim(s): Complainant				
Witness(es): § 87(2)(b) § 87(2)(b)				
Subject officer(s) (include rank): PO James Davis PO Raymond Festino	Shield: 5620 25072	Tax: 901419 915709	Command: 001 009	
Witness officer(s) (include rank):				
Allegation(s) by letter:	Recommendation(s):			
A) PO Davis used force against § 87(2)(b) by throwing him against a wall.	§ 87(2)(g)			
B) PO Festino used force against § 87(2)(b) by throwing him against a wall.				
C) PO Festino abused his authority by removing his gun from the holster.				
D) PO Davis used force by pointing his gun at § 87(2)(b)'s back.				

Summary

At about 11:30 a.m. on April 13, 1996, § 87(2)(b) went into the § 87(2)(b) shop on § 87(2)(b) Street in Manhattan. He ordered a calzone and told the attendant § 87(2)(b) that he was in a hurry. § 87(2)(b) gave § 87(2)(b) the calzone and he bit into it. He complained that it was not hot enough, he wanted a slice of pizza to compensate the calzone. Both § 87(2)(b) and § 87(2)(b) got into an argument. § 87(2)(b) placed his hand inside his shirt and told § 87(2)(b) if he did not give him the food and the money he would shoot him. § 87(2)(b) called the police.

Officers Davis and Festino responded to the location. § 87(2)(b) pointed out § 87(2)(b) to them and both officers approached him. They asked him to get his hands on the wall and they frisked him. They did not find a weapon. Both officers questioned § 87(2)(b) and they took a statement from him. The officers arrested § 87(2)(b) based on the complaint (enc. 5A) and transported him to the 001 precinct where he was charged § 87(2)(a) 160.50

Analysis

§ 87(2)(b) alleged the officers threw him up against a wall - allegations A & B. Both officers said they told § 87(2)(b) to place his hands on the wall, he complied with the order. They denied throwing him against a wall. Both explained he was against a counter and not a wall.
§ 87(2)(b) alleged that both officers approached with their guns drawn and PO Davis held his against his back - allegations C & D. Both officers denied the allegations. PO Davis said he probably had his hand near his gun as precaution, but he did not take it out from the holster. (See encs. 11 & 12) § 87(2)(b), § 87(2)(g) He said that one officer had his hand on his gun but he did not remove it, he said the officers did not use any force against § 87(2)(b) (enc. 8).
§ 87(2)(b), § 87(2)(g)

He said the officers decided to arrest him after he asked for their badge numbers. Both officers said that when § 87(2)(b) gave his complaint, they did not have a choice but to arrest § 87(2)(b) and they did not have another option. § 87(2)(b)
§ 87(2)(b), § 87(2)(g) said he was released the § 87(2)(b) and went to his private physician for treatment for injuries he suffered. The medical records (encs. 4C & 4D) shows § 87(2)(b) was treated for cold/flu symptoms. The physician noted that he is an internist and does not deal with physical injuries. He did not note if § 87(2)(b) had visible injuries.

Investigator: J. Gooding-Alexander

Date: 3/31/97

Supervisor: Brian S.

Date: 3/31/97

Reviewed by: _____

Date: _____

Reviewed by: _____

Date: _____